

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 859 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?
- 1 - 5 No

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MANILAL MAGANLAL MODI

Versus

SUNDERLAL CHAMPAKLAL SHETH

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Appearance:

MR HB SHAH for Petitioner

MR JV DESAI for Respondent No. 1

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 18/12/97

ORAL JUDGEMENT

This Civil Revision Application under Section 29(2) of the Bombay Rent Control Act filed by the defendant-tenant against the judgement and decree dated 8.5.1984 passed by the District Judge, Bharuch confirming the judgement and decree passed by the Joint Civil Judge (JD), Ankleshwar in Regular Civil Suit No. 397 of 1981. The plaintiff's suit has been decreed on the ground under Section 13(1)(g) of the Bombay Rent Control Act i.e.

requirement of the premises for bona fide and reasonable necessity. The plaintiff-respondent has retired from the service. He required the premises on medical advice. He has been advised that he should reside in fresh and unpolluted air. According to him the climate of Vadodara is polluted and his stay at Vadodara is not advisable medically. He has also been advised not to climb to first floor. Both the courts below on appreciation of oral and documentary evidence have, for cogent and convincing reasons based on sound and legal position, found that the requirement of the plaintiff is bona fide. Considering the issue of hardship, the court found that the defendant is having three properties. One of the shop is quite big while the suit shop is very small. It is admitted by the defendant that he is running the business of grains and grocery in both premises. Now he has got a very big shop in possession and also a separate godown in his residential house. In view of this, I find no merit in this revision and the same is accordingly rejected. Rule is discharged. Interim relief is vacated.

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